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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,674	03/09/2004	Hiroto Okawara	CANO:131	2625
37013 7590 04/17/2008 ROSSI, KIMMS & McDOWELL LLP. P.O. BOX 826 ASHBURN, VA 20146-0826				
EXAMINER HENDERSON, ADAM				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/796,674

**Applicant(s)**

OKAWARA, HIROTO

**Examiner**

ADAM L. HENDERSON

**Art Unit**

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 8, 9 and 12-16 is/are rejected.
- 7) ☒ Claim(s) 2-5, 10 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. Figures 6 & 7 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 13-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Computer programs must be encoded on a computer readable medium. Therefore it is suggested to amend the preamble to read: "A ~~computer-readable~~ program encoded on a computer-readable medium for causing ...".

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 9, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Karasaki et al. (US 2003/0076437 A1).

5. With regard to claim 1 Karasaki et al. disclose an image pickup apparatus comprising:  
an image pickup device that picks up an image of a subject and converts the image to an image pickup signal (CCD 303, FIG. 5);

a display device that displays a picked-up image based on the image pickup signal outputted from said image pickup device (LCD 10, FIG. 2);

a selecting device that selects at least one from a plurality of focus detecting regions on a screen of said display device (four-way switch 230, FIG. 2, paragraphs [0058, 0061]) [there are a near infinite number of focus detecting regions since the focus detection region can be selected from anywhere on the display];

an extracting device that extracts a focus signal from the image pickup signal in the at least one focus detecting regions selected by said selecting device (evaluation value computing unit 211k, paragraphs [0106-0110]);

a focus adjusting device that extracts a focus adjustment on said image pickup device based on the focus signal extracted by said selecting device (AF motor driving circuit 216, paragraphs [0092-0094]);

an operating element that enables a photographer to instruct to change the at least one focus detecting region selected by said selecting device (key switch 225, FIG. 2, paragraph [0058]); and

a confirming device that confirms the at least one focus detecting region instructed to change by the photographer using said operating element when a predetermined condition is satisfied, herein the predetermined condition is that a predetermined time period has elapsed after the photographer instructed to change the at least one focus detecting region (timer 211c and overall control unit 211, FIG. 2, paragraphs [0133-0134]).

6. Claims 9 and 13 are rejected under the same analysis as claim 1.

*Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8, 12, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofer et al. (US 2003/0123865 A1) in view of Suda (US Patent 6,388,707) and Murata (US Patent 5,075,777).
9. With regard to claim 8 Hofer et al. disclose an image pickup apparatus comprising:
- a image pickup device that picks up an image of a subject and converts the image to an image pickup signal (paragraph [0024]);

a display device that displays a picked-up image based on the image pickup signal outputted from said image pickup device (graphical display panel 42, FIG. 2);

automatic and manual focus modes (paragraph [0046]);

an extracting device that extracts a focus signal from the image pickup signal in the at least one focus detecting region (paragraph [0030]) [a single focus region is taught in this paragraph];

a focus adjusting device that carries out focus adjustment on said image pickup device based on the focus signal extracted by said extracting device (paragraphs [0030-0034]);

a first operating element that enables the photographer to instruct to carry out still image photography (mode dial 20, paragraph [0029]);

a second operating element that enables the photographer to instruct to carry out moving image photography (mode dial 20, paragraph [0029]);

a recording device that records the image pickup signal outputted from said image pickup device as a still image in accordance with an instruction to carry out the still image photography given by the photographer using said first operating element and records the image pickup signal outputted from said image pickup device as a moving image in accordance with an instruction to carry out the moving image photography given by the photographer using said second operating element (paragraphs [0026-0029]).

Hofer et al. fail to disclose an automatic selection device that automatically selects at least one from a plurality of focus detecting regions on a screen of said display device;

a manual selecting device that selects at least one out of the plurality of focus detecting regions according to an instruction from a photographer;

a control device that provides control to cause said automatic selection device to select the at least one focus detecting region when the photographer has instructed to carry out the moving image photography and cause said second operating element to inhibit recording of the movie image by said recording device until the focus adjustment by said focus adjusting device based on the focus signal extracted from the at least one focus detecting region is completed.

Suda discloses an automatic selection device that automatically selects at least one from a plurality of focus detecting regions on a screen of said display device (column 14 lines 6-15);

a manual selecting device that selects at least one out of the plurality of focus detecting regions according to an instruction from a photographer (column 13 lines 56-67) [the system attempts to determine the user's region selection via line-of-sight detection, when there is no detected line-of-sight it switches to an automatic region selection; a central region].

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the system of Hofer et al. to include the manual and automatic region selection of Suda in order to allow the user to determine what the best detection region would be while still providing a default detection region when no region selection is conclusively determined (column 2 line 62 - column 3 line 30).

Murata discloses a control device that provides control to cause said second operating element to inhibit recording of the movie image by said recording device until the focus adjustment by said focus adjusting device based on the focus signal extracted from the at least one focus detecting region is completed (column 9 line 58 – column 10 line 14) [the video signal is not recorded until after the focus driving operation has been completed and thus the video recording is inhibited during the focus operation].

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the system of Hofer et al. to include the recording inhibitor taught by Murata in order to ensure that the system is properly focused prior to recording. If the system is not properly focused prior to the start of recording then at least a portion of the recorded material will be out of focus and blurry. Therefore it would be obvious to include a recording inhibition method in order to ensure a better resultant image.

10. Claims 12 and 16 are rejected under the same analysis as claim 8.

#### ***Allowable Subject Matter***

11. Claims 2-7, 10, 11, 14, and 15 are allowed.

12. The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to teach or make obvious a system that delays confirmation of a chosen focus region until either the initiation of a zoom operation; as per claims 2, 10, and 14; or initiation of a recording operation; as per claims 3, 11, and 15.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADAM L. HENDERSON whose telephone number is (571)272-8619. The examiner can normally be reached on Monday-Friday, 7am to 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ngoc-Yen Vu can be reached on 571-272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ALH  
13 April 2008

*/Ngoc-Yen T. VU/  
Supervisory Patent Examiner, Art Unit 2622*